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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,170	06/30/2003	Lakdas Nanayakkara	1070.26	7800

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09/09/2005

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EXAMINER

BERGERON, ROLAND C

ART UNIT PAPER NUMBER

3635

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/609,170

Applicant(s)

NANAYAKKARA, LAKDAS

Examiner

Roland Bergeron

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/30/03</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. Claims 1 through 21 have been examined.

Information Disclosure Statement

2. The Information Disclosure Statement is objected to per the requirements of the 37 CFR 1.97 (§1.98((b)(1))) because U.S. Patent 4,589,341 to Clark is showed as being issued in 1968. Each U.S. patent listed in an information disclosure statement must be identified by inventor, patent number, and issue date. Said patent was actually issued on May 20, 1986. Therefore, unless the reference have been cited by the examiner on form PTO-892, it has not been considered.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to properly show in figure 2 the y-axis channel 16 as depicted in figure 3 as described in the specification (page 6, line 16). Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

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and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The specification is objected to because U. S. Patent No. 6,224,473 to Romig reference on page 2 does not refer to an Explosive Relief System Including Explosion Relief Panel. According to your IDS reference on Form 1449, the Reference to the U.S. Patent maybe to No. 6,223,474 to Romig. Correction is required.
5. The abstract of the disclosure is objected to because it is not in the proper format. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

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The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yerushalmi (U.S. Patent 4,433,522) in view of Gagliano (U.S. Patent 6,578,333 B1).

With regard to Claim 1, Figures 10-12 of Yerushalmi shows and discloses in the specification (column 4, lines 19-27) an opposing pair of elongated vertical panels (items 202 and 204) proportioned and secured in two grooves or channels (items 212 and 214) on a flat concrete base or surface (item 210). Yerushalmi also shows in Figure

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10 (item 208) and discusses in the specification (column 1, lines 43-47) the use of filling material between said panels consisting of concrete or asphalt considered to be high shock absorbent or resistant material. What Yerushalmi does not show are piles secured, symmetrically placed and recessed in a concrete plane or base. Figures 1-3 of Gagliano shows and discusses in the specification (column 4, lines 6-33) integrated pre-cast footings or ground level piles (item 2) capped (item 3a) in a standard foundation wall (plane surface; items 1i and 1ii) that are inserted, recessed and symmetrically placed in sleeves (item 3). Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to add to the high shock absorbent wall structure of Yerushalmi as modified by Gagliano such the footing could be inserted and capped in a concrete base structure. The motivation of adding symmetrically placed footings of Gagliano to the wall structure of Yerushalmi would serve to provide a suitable and stable alternative of securing the wall structure to the ground with out the benefit a rigid combination floor and ceiling/roof structure for the wall.

With regard to claims 2-21, the proportional (ratios) alignments, spacing, sizes, position etc. would generally be recognized as being within the level of ordinary skill in the art and would simply be a matter of design choice.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roland Bergeron whose telephone number is (571) 272-2943. The examiner can normally be reached on 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



RCB
9/2/05



Carl D. Friedman
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